

MARKET CONDUCT SURVEILLANCE LAW

(VERSION II)

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Section 1. Short Title

This Act shall be known and may be cited as the *Market Conduct Surveillance Law*.

Section 2. Purpose/Legislative Intent

The purpose of this act is to establish a framework for Insurance Department market conduct actions, including:

- Processes and systems for identifying, assessing and prioritizing market conduct problems that have a substantial adverse impact on consumers, policyholders and claimants;
- Market conduct actions by a commissioner to substantiate such market conduct problems and a means to remedy significant market conduct problems; and
- Procedures to communicate and coordinate market conduct actions among states to foster the most efficient and effective use of resources.

Section 3. Scope

Notwithstanding any other grant of authority to the Commissioner to regulate the business of insurance in this state, market analysis, market conduct actions and market conduct examinations shall be undertaken solely as provided in this Act. Authority not expressly delegated to the Commissioner under this Act shall not be inferred.

Section 4. Definitions

- (a) “Commissioner” means the insurance Commissioner of the state.
- (b) “Complaint” means a written or documented oral communication primarily expressing a grievance, meaning an expression of dissatisfaction. For health companies, a grievance is a written complaint submitted by or on behalf of a covered person.
- (c) “Comprehensive Market Conduct Examination” means a review of one or more lines of business of an insurer domiciled in this state that is not conducted for cause. The term includes a review of rating, tier classification, underwriting, policyholder service, claims, marketing and sales, producer licensing, complaint handling practices, or compliance procedures and policies.
- (d) “Insurance compliance self-evaluative audit” means a voluntary, internal evaluation, review, assessment, audit, or investigation for the purpose of identifying or preventing noncompliance with, or promoting compliance with laws, regulations, orders, or industry or professional standards, which is conducted by or on behalf of a company licensed or regulated under the insurance laws of this state, or which involves an activity regulated under Title 48.
- (e) “Insurance compliance self-evaluative document” means documents prepared as a result of or in connection with an insurance compliance audit.
- (f) “Insurer” means every person engaged in the business of making contracts of insurance and includes health maintenance organizations as defined in RCW §48.46.020 and health care service contractors as defined in RCW §48.44.010.
- (g) “Market Analysis” means a process whereby market conduct surveillance personnel collect and analyze information from filed schedules, surveys, required reports and other sources in order to develop a baseline understanding of the marketplace and to identify patterns or practices of insurers that deviate significantly from the norm or that may pose a potential risk to the insurance consumer.
- (h) “Market Conduct Action” means any of the full range of activities that the Commissioner may initiate to assess and address the market practices of insurers licensed to do business in this state, beginning with market analysis and extending to targeted examinations. The Commissioner’s activities to resolve an individual consumer complaint or other report of a specific instance of misconduct are not market conduct actions for purposes of this act.
- (i) “Market Conduct Examination” means the examination of the insurance operations of an insurer licensed to do business in this state in order to evaluate compliance with the applicable laws and regulations of this state. A market conduct examination may be either a comprehensive examination or a targeted examination. A market conduct examination is separate and distinct from a financial examination of an insurer performed pursuant to RCW 48.03.010, but may be conducted at the same time.’

(j)“Market conduct uniform examination procedures” means the set of guidelines developed and adopted by the National Association of Insurance Commissioners designed to be used by market conduct surveillance personnel in conducting an examination.

(k) “Market Conduct Surveillance Personnel” means those individuals employed or contracted by the Commissioner to collect, analyze, review or act on information on the insurance marketplace which identifies patterns or practices of insurers.

(l) “National Association of Insurance Commissioners” (NAIC) means the organization of insurance regulators from the 50 states, the District of Columbia and the five (5) U.S. territories.

(1) “NAIC Market Conduct Examiner’s Handbook” means the set of guidelines developed and adopted by the NAIC, which documents established practices to be used by market conduct surveillance personnel in developing and executing an examination.

(2) “NAIC Market Conduct Uniform Examination Procedures” means the set of guidelines developed and adopted by the NAIC designed to be used by market conduct surveillance personnel in conducting an examination.

(3) “NAIC Standard Data Request” means the set of field names and descriptions developed and adopted by the NAIC for use by market conduct surveillance personnel in a market conduct action.

(m)“Qualified Contract Examiner” means a person under contract to the Commissioner, who is qualified by education, experience and, where applicable, professional designations, to perform market conduct actions.

(n)“Standard data request” means the set of field names and descriptions developed and adopted by the National Association of Insurance Commissioners for use by market conduct surveillance personnel in a market conduct action.

(o)“Targeted Examination” means a focused exam, based on the results of market analysis indicating the need to review either a specific line of business or specific business practices, including but not limited to underwriting and rating, marketing and sales, complaint handling operations/management, advertising materials, licensing, policyholder services, non-forfeitures, claims handling, or policy forms and filings. A targeted examination may be conducted by desk examination or by an on-site examination.

(4) “Desk Examination” means an examination that is conducted by an examiner at a location other than the insurer’s premises. A desk examination is usually performed at the Insurance Department’s offices with the insurer providing requested documents by hard copy, microfiche, discs or other electronic media, for review.

(5) “On-site Examination” means an examination conducted at the insurer’s home office or the location where the records under review are stored.

Section 5. Domestic Responsibility and Deference to Other States

- (a) The Commissioner is responsible for conducting market conduct examinations on insurers domiciled in the state. The Commissioner may delegate that responsibility to the Commissioner of another state, provided such Commissioner agrees to accept the delegated responsibility. If the Commissioner elects to delegate responsibility for examining an insurer, the Commissioner shall accept a report of the examination prepared by the Commissioner to whom the responsibility has been delegated.
- (b) If the insurer to be examined is part of an insurance holding company system, the Commissioner may also seek to simultaneously examine any affiliate of the insurer under common control and management which are licensed to write the same lines of business in this state, provided the affiliate and the Commissioner of their state of domicile consent to such examination.
- (c) In lieu of conducting a market conduct examination of an insurer licensed but not domiciled in this state, the Commissioner shall accept a report of a market conduct examination on such insurer prepared by the Commissioner of the insurer's state of domicile or another state, provided:
 - (1) The laws of that state applicable to the subject of the examination are substantially similar to those of this state; and
 - (2) The examining state has a market conduct surveillance system that the Commissioner deems comparable to the market conduct surveillance system required under this Act.
- (d) The Commissioner's determination under Subsection (c) (2) is discretionary with the Commissioner and is not subject to appeal.
- (e) Subject to a determination under Subsection (c), if a market conduct examination conducted by another state results in a finding that an insurer should modify a specific practice or procedure, the Commissioner shall accept documentation that the insurer has made a similar modification in this state, in lieu of initiating a market conduct action or examination related to that practice or procedure.

Section 6. Market Analysis Procedures

- (a) (1) The Commissioner shall gather information from data currently available to the Insurance Department, as well as surveys and required reporting requirements, information collected by the NAIC, information from within and outside the insurance industry from objective sources, information from websites for insurers, agents and other organizations and information from other sources.
- (2) Such information shall be analyzed in order to develop a baseline understanding of the marketplace and to identify for further review insurers or practices that deviate significantly from the norm or that may pose a potential risk to the insurance consumer.
- (3) The Commissioner shall use the following policies and procedures in performing the analysis required under this section:
 - (A) Maintain an ongoing Market Analysis Chief (MAC);

- (B) Establish a systematic interdivisional communication program;
- (C) Identify key lines of business for systematic review;
- (D) Identify companies for further analysis based on available information, including but not limited to:
 - (i) Complaint activity on justified complaints that indicates a potential harm to consumers;
 - (ii) Significant changes in Direct Written Premium volume; and
 - (iii) Significant changes or anomalies in reserves.
- (b) After completion of any level of Market Analysis, the state shall contact the insurer to verify the analysis prior to further market conduct action;
 - (A) Insurers shall be given the opportunity to verify insurer specific information that is used and relied upon by the department in identifying insurers or practices for market conduct actions.
 - (B) Except as otherwise specifically provided, the department or the Commissioner, as applicable, may not require an insurer to report information in a manner that is inconsistent with the records the insurer maintains in the ordinary course of business or can create at a reasonable expense or effort. This provision may not apply in the event the same information is requested from multiple insurers for purposes of analysis.
- (c) If the Commissioner determines, as a result of market analysis, that further inquiry into a particular insurer or practice is needed, the following continuum of market conduct actions shall be considered prior to conducting a targeted market conduct examination. The action selected shall be made known to the insurer in writing if the action involves insurer participation or response. These actions may include, but are not limited to:
 - (1) Correspondence with Insurer;
 - (2) Insurer Interviews;
 - (3) Information Gathering;
 - (4) Policy and Procedure Reviews;
 - (5) Interrogatories;
 - (6) Review of Insurer Self-Evaluation and compliance programs, including membership in a best-practice organization.
- (d) In selecting a market conduct action the Commissioner shall consider the cost effectiveness of different actions, the nature of the problem and the need to protect insurance consumers.
- (e) The Commissioner shall take those steps reasonably necessary to eliminate requests for information that duplicate or conflict with information provided as part of an insurer's annual financial statement, the annual market conduct statement of the National Association of Insurance

Commissioners, or other required schedules, surveys, or reports that are regularly submitted to the Commissioner, or with data requests made by other states if that information is available to the Commissioner, unless the information is state specific, and coordinate market conduct actions and findings with other states.

- (f) The causes or conditions, if identified through market analysis, that may trigger a targeted examination are:
 - (A) Information obtained from market analysis, a market conduct annual statement, market survey or report of financial examination indicating potential fraud, that the insurer is conducting the business of insurance without a license or is engaged in a potential pattern of unfair trade practices or other violations of the insurance laws.
 - (B) A number of justified complaints against the insurer or a justified complaint ratio or index sufficient to indicate potential fraud, conducting the business of insurance without a license, or a potential pattern of unfair trade practices or other violations of the insurance laws. For the purposes of this section, a separate complaint ratio or index shall be determined for each line of business if the Commissioner has sufficient data to do so.
 - (C) Information obtained from other objective sources, such as published advertising materials indicating potential fraud, conducting the business of insurance without a license, or evidencing a potential pattern of unfair trade practices or other violations of the insurance laws.

Section 7. Protocols for Market Conduct Actions

- (a) Market conduct actions taken as a result of a market analysis shall focus on the general business practices and compliance activities of insurers, rather than identifying infrequent or unintentional random errors that do not cause significant consumer harm.
- (b) (1) The Commissioner is authorized to determine the frequency and timing of such market conduct actions. The timing shall depend upon the specific market conduct action to be initiated, unless extraordinary circumstances indicating a risk to consumers require immediate action.
 - (2) If the Commissioner has information that more than one insurer is engaged in common practices that may violate statute or regulations, the Commissioner may schedule and coordinate multiple examinations simultaneously.
- (c) The insurer shall be notified of any practice or procedure which is to be the subject of a market conduct action and shall be given an opportunity to resolve matters that arise as a result of a market analysis to the satisfaction of the Commissioner prior to the commencement of a market conduct action. If the insurer has modified such practice or procedure as a result of a market conduct action taken by the Commissioner of another state, the Commissioner shall accept documentation and proof that the insurer has satisfactorily modified the practice or procedure and made similar modification to such practice or procedure in this state.
- (d) For any change made to an NAIC work product referenced in this Act, the Commissioner shall adopt by regulation procedures and documents that are substantially similar to the NAIC work products defined or referenced in this Act. Market analysis, market conduct actions and market

conduct examinations shall be performed in accordance with such regulation. If any subsequent amendment to an NAIC work product defined or referenced in this Act materially changes the way in which market analysis, market conduct actions or market conduct examinations are performed, the Commissioner shall give notice and provide interested parties with an opportunity for a public hearing pursuant to (cite the appropriate state administrative procedures act) before such amendment is incorporated into the regulation. If no hearing is held, the Commissioner shall use the version of such work product most recently developed and adopted by the NAIC.

- (e) Except as otherwise provided by law, every company or person from whom information is sought, its officers, directors and agents shall provide the Commissioner convenient and free access to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company during normal business hours. The officers, directors, employees, insurance producers and agents of the company or person must facilitate market conduct actions and market conduct examinations so far as it is in their power to do so.

Section 8. Protocols for Market Conduct Examinations

- (a) When market analysis identifies a pattern of conduct or practice by an insurer which requires further investigation, and other market conduct actions identified in section 6 (c) are not appropriate, the Commissioner has the discretion to conduct targeted market conduct examinations in accordance with the NAIC Market Conduct Uniform Examination Procedures and the Market Conduct Examiners Handbook
- (b) If the insurer to be examined is not a domestic insurer, the Commissioner shall coordinate the examination with the insurance Commissioner of the state in which the insurer is organized.
- (c) Concomitant with the notification requirements established in subsection (f) of this section, the commissioner shall post notification on the NAIC *Examination Tracking System*, or successor NAIC product as determined by the Commissioner, that a market conduct examination has been scheduled.
- (d) The Commissioner may not conduct a comprehensive market conduct examination more frequently than once every five years. The Commissioner may waive conducting a comprehensive market conduct examination based on market analysis.
- (e) (1) Prior to commencement of an examination, market conduct surveillance personnel shall prepare a work plan consisting of the following:
 - (A) The name and address of the insurer(s) being examined;
 - (B) The name and contact information of the examiner-in-charge;
 - (C) The justification(s) for a targeted examination;
 - (D) The scope of an examination;
 - (E) The date the on-site examination is scheduled to begin;

- (F) Identification of any non-insurance department personnel who will assist in the examination;
- (G) A time estimate for the examination;
- (H) A budget for the examination if the cost of the examination is billed to company; and
- (I) An identification of factors that will be included in the billing if the cost of the examination is billed to company.

(2) An examination may be conducted through a desk examination or an on-site examination. Examinations shall, to the extent feasible, utilize desk examinations and data requests prior to an on-site examination.

(3) The department shall use the NAIC Standard Data Request (or successor product, adopted by regulation, that is substantially similar to the foregoing NAIC product).

(4) The causes or conditions, if identified through market analysis, that may trigger a targeted examination are:

- (A) Information obtained from market analysis, a market conduct annual statement, market survey or report of financial examination indicating potential fraud, that the insurer is conducting the business of insurance without a license or evidencing a potential pattern or practice of unfair or deceptive practices or other violations of the insurance laws.
- (B) A number of justified complaints against the insurer or a justified complaint ratio or index sufficient to indicate potential fraud, that the insurer is conducting the business of insurance without a license or evidencing a potential pattern or practice of unfair or deceptive practices or other violations of the insurance laws.
- (C) Information obtained from other objective sources, such as published advertising materials indicate potential fraud, that the insurer is conducting the business of insurance without a license or evidencing a potential pattern or practice of unfair or deceptive practices or other violations of the insurance laws.

- (f) Announcement of the examination shall be sent to the insurer and posted on the NAIC's *Examination Tracking System* (or successor NAIC product, as determined by the commissioner) as soon as possible but in no case later than 60 days before the estimated commencement of an examination, except where the exam is conducted in response to extraordinary circumstances as described in Section 7(b)(1). Such announcement sent to the insurer shall contain the examination work plan and a request for the insurer to name its examination coordinator.
- (g) If a targeted examination is expanded beyond the reasons provided to the insurer in the notice of the examination required under this Section, the Commissioner shall provide written notice to the insurer, explaining the extent of the expansion and the reasons for the expansion. The department shall provide a revised work plan to the insurer before the beginning of any significantly expanded examination.

- (h) The Commissioner shall conduct a pre-examination conference with the insurer examination coordinator and key personnel to clarify expectations no later than thirty (30) days prior to commencement of the examination.
- (i) Prior to the conclusion of an examination, the individual among the market conduct surveillance personnel who is designated as the examiner-in-charge shall schedule an exit conference with the insurer.
- (j) (1) The commissioner shall adhere to the following timeline, unless a mutual agreement is reached with the insurer to modify the timeline:
 - (A) If the Commissioner elects to issue a report, a draft examination report shall be delivered to the insurer within sixty (60) days of the completion of the examination. Completion of the examination shall be defined as the date the Commissioner confirms in writing that the examination is completed.
 - (B) The insurer must respond with written comments within 30 days of receipt of the draft report.
 - (C) The department shall make a good faith effort to resolve issues informally and where the Commissioner determines that such examination report is required, shall prepare a final report within 30 days of receipt of the insurer's written comments, unless a mutual agreement is reached to extend the deadline.
 - (D) The commissioner shall make corrections and other changes, as appropriate to reflect resolution of disputed matters, and shall issue the report to the insurer. The insurer shall, within 30 days, accept the final report, accept the findings of the report, file written comments, or request a hearing. An additional 30 days shall be allowed if agreed to by the Commissioner and the insurer. Any such hearing request must be made in accordance with the Administrative Procedure Act, Chapter 34.05 RCW.
- (2) The Commissioner shall include the company's response in the final report. The response may be included as an appendix or in the text of the examination report. The company is not obligated to submit a response. Individuals involved in the examination should not be named in either the report or the response except to acknowledge their involvement.
- (k)(1) Upon adoption of the examination report pursuant to subsection (j), the Commissioner shall continue to hold the content of the examination report as private and confidential, except to the extent provided for in paragraph (2) of this subsection. Documents and information obtained during an alternative dispute resolution under Section 9, and the results of such action, shall be afforded the same protection. No such report or information shall be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private action. This section may not be construed to limit the Commissioner's authority to use any final or preliminary market conduct examination report, any examiner or company work papers or other documents, or any other information discovered or developed during the course of an examination in the furtherance of any legal or regulatory action that the Commissioner, in the Commissioner's sole discretion may deem appropriate.

(2) Nothing contained in this Act shall prevent or be construed as preventing the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of this or any other state or agency of the federal government at any time, provided the agency or office receiving the report or matters relating thereto agrees to hold it confidential and in a manner consistent with this Act.

(l) (1) Where the reasonable and necessary costs and fees of a market conduct examination are to be assessed against the insurer under examination, such costs and fees shall be consistent with that otherwise authorized by law. Such costs and fees shall be itemized and bills shall be provided to the insurer on at least a monthly basis for review prior to submission for payment.

(2) The Commissioner shall maintain active management and oversight of examination costs and fees, including, but not limited to, costs and fees associated with the use of department personnel and examiners and with retaining qualified contract examiners necessary to perform an examination. To the extent the Commissioner retains outside assistance, the Commissioner must enter into written contracts that:

(A) Clearly identify the types of functions to be subject to outsourcing;

(B) Provide specific timelines for completion of the outsourced review;

(C) Require disclosure of contract examiners' recommendations;

(D) Require disclosure of the terms of the contracts with the outside consultants that will be used, specifically the fees and/or hourly rates that can be charged.

(3) The Commissioner shall review and affirmatively endorse detailed billings from the qualified contract examiner before the detailed billings are sent to the insurer.

(4) The Commissioner may contract in accordance with applicable state contracting procedures, for such qualified contract actuaries and examiners as the Commissioner deems necessary due to the unavailability of qualified regular state employees to conduct a particular examination; provided that the compensation and per diem allowances paid to such contract persons shall not exceed one hundred twenty-five percent (125%) of the compensation and per diem allowances for examiners set forth in the guidelines adopted by the National Association of Insurance Commissioners.

(5) An insurer may not be required to provide reimbursement for examination costs and fees under Subsection (1), whether those costs and/or fees are incurred by market conduct surveillance personnel or qualified contract examiners, to the extent that those costs and/or fees exceed the costs and /or fees prescribed in the Market Conduct Examiners Handbook and any successor documents to that Handbook unless the Commissioner demonstrates that the costs and/or fees prescribed in the Handbook are inadequate under the circumstances of the examination.

Section 9. Confidentiality Requirements

- (a) Except as otherwise provided by law, market conduct surveillance personnel shall have free and full access to all books and records, employees, officers and directors, as practicable, of the insurer during regular business hours. All documents, including but not limited to working papers, complaint logs, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in the course of any market conduct actions made pursuant to this Act, or in the course of market analysis by the commissioner of the market conditions of an insurer, or obtained by the NAIC as a result of any of the provisions of this Act, shall be confidential by law and privileged, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action.
- (b) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section.
- (c) Market conduct surveillance personnel shall be vested with the power to issue subpoenas and examine insurance company personnel under oath when such action is ordered by the Commissioner pursuant to (cite the appropriate state authority).
- (d) Notwithstanding the provisions of paragraph (a) of this subsection, in order to assist in the performance of the Commissioner's duties, the Commissioner may:
 - (1) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph (a), with other state, federal and international regulatory agencies and law enforcement authorities and the NAIC and its affiliates and subsidiaries, provided that the recipient agrees to and has the legal authority to maintain the confidentiality and privileged status of the document, material, communication or other information;
 - (2) Receive documents, materials, communications or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and
 - (3) Enter into agreements governing the sharing and use of information consistent with this subsection.
- (e) An insurance compliance self-evaluative audit document that has been provided to the commissioner is confidential by law and privileged, shall not be made public by the commissioner, shall not be subject to subpoena and shall not be subject to discovery and shall not be admissible in evidence in any private civil action.

Section 10. Market Conduct Surveillance Personnel

- (a) Market conduct surveillance personnel shall be qualified by education, experience and, where applicable, professional designations. The Commissioner may supplement the in-house market conduct surveillance staff with qualified outside professional assistance if the Commissioner determines that such assistance is necessary.
- (b) Market conduct surveillance personnel have a conflict of interest, either directly or indirectly, if they are affiliated with the management, have been employed by, or own a pecuniary interest in the insurer subject to any examination under this Act. This section shall not be construed to automatically preclude an individual from being:
 - (1) A policyholder or claimant under an insurance policy;
 - (2) A grantee of a mortgage or similar instrument on the individual's residence from a regulated entity if done under customary terms and in the ordinary course of business;
 - (3) An investment owner in shares of regulated diversified investment companies; or
 - (4) A settlor or beneficiary of a "blind trust" into which any otherwise permissible holdings have been placed.

Section 11. Immunity for Market Conduct Surveillance Personnel

- (a) No cause of action shall arise nor shall any liability be imposed against the Commissioner, the Commissioner's authorized representatives or an examiner appointed by the Commissioner for any statements made or conduct performed in good faith while carrying out the provisions of this Act.
- (b) No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the Commissioner or the Commissioner's authorized representative or examiner pursuant to an examination made under this Act, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.
- (c) A person identified in subsection (a) shall be entitled to an award of attorney's fees and costs if he or she is the prevailing party in a civil cause of action for libel, slander or any other relevant tort arising out of activities in carrying out the provisions of this Act and the party bringing the action was not substantially justified in doing so. For purposes of this section a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.
- (d) This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified subsection (a).

Section 12. Fines and Penalties

- (a) Fines and penalties levied as a result of a market conduct action or other provisions of the state Insurance Law shall be consistent, reasonable and justified.

- (b) The Commissioner shall take into consideration actions taken by insurers to maintain membership in, and comply with the standards of, best-practice organizations that promote high ethical standards of conduct in the marketplace, and the extent to which insurers maintain regulatory compliance programs to self assess, self-report and remediate problems detected and may include those considerations in determining the appropriate fines levied in accordance with subsection (a).

Section 13. Participation in National Market Conduct Databases

- (a) The Commissioner shall collect and report market data to the NAIC's market information systems, including the Complaint Database System, the Examination Tracking System, and the Regulatory Information Retrieval System, or other successor NAIC products, or to additional systems, as determined by the Commissioner in a manner that meets the requirements of the NAIC and its systems.
- (b) Information collected and maintained by the Insurance Department shall be compiled in a manner that meets the requirements of the NAIC

Section 14. Coordination with Other States Through the NAIC

- (a) The Commissioner shall share information and coordinate the Insurance Department's market analysis and examination efforts with other states through the NAIC.

Section 15. Additional Duties of the Commissioner

- (a) At least once per year, or more frequently if deemed necessary, the Commissioner shall provide in an appropriate manner to insurers information on new laws and regulations, enforcement actions and other information the Commissioner deems pertinent to ensure compliance with market conduct requirements. The failure of the Commissioner to provide any such information shall not be a defense for any insurer that fails to comply with any insurance law of this state. The Commissioner may provide the required notice in an electronic format that is designed to give insurers and other entities adequate notice.
- (b) The Commissioner shall designate a specific person or persons within the Insurance Department whose responsibilities shall include the receipt of information from employees of insurers and licensed entities concerning violations of laws, rules or regulations by employers, as defined in this section. Such person or persons shall be provided with proper training on the handling of such information, which shall be deemed a confidential communication for the purposes of this section.

Section 16. Effective Date This Act shall take effect *[insert chosen date]*.

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